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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 6192 of 2004
Date of decision: 27.11.2007

Rajasthan Telematics Limited ...Petitioner

Versus

Haryana State Electricity Board and another ...Respondents

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CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

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Present: Mr. Akshay Bhan, Advocate with
Mr. Santosh Kumar, Advocate for the petitioner.

Ms. Vandana Malhotra, Advocate for the respondents.

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RAJESH BINDAL, J.

The challenge in the present petition is to the order dated October 27, 2004 passed by learned Additional District Judge, Hisar whereby appeal filed by the petitioner against the judgment and decree of the trial Court dated December 2, 1999 vide which the award of the Arbitrator dated July 06, 1998 was made rule of the court was dismissed on account of delay.

The undisputed facts on record are that on account of dispute arising between the parties, the matter was referred to the Arbitrator, who passed an award on July 6, 1998. On application by respondent no.1 for making award of the Arbitrator as rule of the Court, notice was issued to the petitioner, who appeared on December 3, 1998. Thereafter, vide order dated December 2, 1999, as no objections were preferred by the petitioner, the award was made rule of the Court. As inadvertently the decree was not drawn by the trial Court, an application under Section 152 of the Code of Civil Procedure was filed by respondent no.1, which was ordered to be prepared on September 25, 2001 after due notice to the counsel for the

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petitioner. Against the decree of the trial Court, appeal was sought to be preferred only on November 20, 2002. The delay was sought to be justified raising the plea that first copy of the judgment delivered by the Court was lost in transit and when decree sheet, which was ordered to be prepared on application by respondent no.1 on September 25, 2001 in the presence of counsel for the petitioner, that order was also lost in transit.

Be that as it may, this fact cannot be disputed that even during the proceedings for making award of the Arbitrator as rule of the Court, petitioner was represented by counsel. No objections were filed by the petitioner. Thereafter, no efforts were made for filing the appeal or for getting the decree prepared in case inadvertently same had not been prepared by the trial Court. When on application by respondent no.1, the decree was prepared on September 25, 2001 in the presence of counsel for the petitioner, still no steps were taken to file the appeal. The conduct of the petitioner shows that he is not interested in prosecuting the cause rather is interested to delay the due process of law.

Accordingly, I do not find any merit in the present petition and the same is dismissed.

November 27, 2007 **(Rajesh Bindal)**
Pka **Judge**